MARRIAGE

WITH A

DECEASED WIFE'S SISTER,

CONSIDERED IN CONNECTION WITH THE STANDARDS & PRACTICE OF

THE CANADA PRESBYTERIAN CHURCH:

BEING AN ARGUMENT SHOWING THAT SCRIPTURE DOES NOT FORBID THE MARRIAGE,

BY REV. JOHN LAING, OF COBOURG;

WITH A REPLY THERETO,

BY REV. WILLIAM GREGG, OF TORONTO;

AND SOME FURTHER REMARKS, BY MR. LAING.

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1868

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WITH THE

SISTER OF A DECEASED WIFE,

CONSIDERED IN CONNECTION WITH THE

STANDARDS AND PRACTICE

OF THE

CANADA PRESBYTERIAN CHURCH.

BY

JOHN LAING,

MINISTER AT COBOURG, ONTARIO.

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PREFACE.

Since the publication of the following pamphlet, the Rev. W. Gregg, of Cooke's Church, Toronto, has published another, in which he notices the arguments therein set forth, and adds other matter; his intention being to give "a brief statement of the Scriptural argument" against the marriage in question. This tract, through the kindness of Mr. Gregg, who has put a number of copies at my disposal, I am now able to circulate along with the first. I have also added a few remarks on Mr. Gregg's pamphlet, which I trust will serve to make an intricate subject somewhat plain to the intelligent reader.

The design of both writers is to elicit truth, and to vindicate it. We differ in our interpretations of a portion (only one verse) of Holy Scripture. As, however, the practice of the Church is based on the interpretation, and that practice has been called in question, we desire that every ruler in the Church may have an opportunity of judging after hearing both sides.

The literature on the subject is not inconsiderable, but only a small portion of it is accessible to most readers. "The Hebrew Wife," by Sereno Dwight, an American lawyer; "The Marriage Affinity Question," a large volume by Dr. Gibson, of Glasgow, adopting the argument of the first-mentioned; "An Enquiry into the Marriage Question," by

Dr. Lindsay, late Professor of the U. P. Church, Scotland, and an article from the same able pen, in "Fairbairn's Bible Dictionary," are accessible to many, and probably contain all that can be said against the marriage in question. On the other side, there is very little, excepting tracts which have been written; a short notice in "Smith's Bible Dictionary;" some articles in reviews and periodicals and reported speeches; and these are not easily procured or collected. On the whole, however, we believe that, so far as the practice of the Canada Presbyterian Church is concerned, the substance of the arguments on both sides will be found briefly stated in the following tracts. Such as they are, they are respectfully submitted to the reader.

J. L.

ERRATA:

Page 18.—Between lines 17 and 18 insert, "*in the collateral line after the wife's death.*"

Page 26, line 4.—For "uniformity," read "unison."

MARRIAGE

WITH THE

SISTER OF A DECEASED WIFE.

At the Synod of the Canada Presbyterian Church, which was held in Toronto, in June, 1867, the question: How men who had married the sister of a deceased wife should be dealt with by the Church Courts? came under discussion twice. One John Cunningham, who had been suspended from the membership of the Church by the Kirk Session of New Glasgow and Kintyre, appealed against the decision of the Presbytery of London, which had confirmed the action of the Session. The Synod, by a vote of 137 to 5, affirmed the decision of the Presbytery. The other case was as follows:—The Kirk Session of Knox's Church, Woodstock, Ontario, had referred for advice to the Presbytery of Paris the case of a Mr. Sherran, who had married in this relation. The Presbytery, "after due deliberation, instructed the Session "to suspend Mr. Sherran in the meantime from the mem- "bership of the Church, and recommended the Session "to overture the next meeting of Synod on the whole "question." The Session of Woodstock accordingly submitted an overture to the Presbytery of Paris, which was by them transmitted in due course to the Synod. It was received by the Synod and partly discussed. Finally it was agreed "That the further consideration of this "overture be postponed until the next meeting of Synod."

The overture was as follows:—

'To the Rev. the Synod &c.....The Session of Knox's Church, 'Woodstock, respectfully present the following overture:

'Whereas by the 4th article of the 24th chapter of the Con- 'fession of Faith, marriage with a Deceased Wife's sister is prohib- 'ited as contrary to the word of God:

'And whereas the passages of Scripture cited in proof thereof 'do not prohibit the marriage in question:

'And whereas other passages of Scripture teach with very con- 'siderable clearness the lawfulness of such marriage in the sight of 'God:

'And whereas the present law of the Church on this point, 'consistently administered, consigns all persons so married to hope- 'less exclusion from Church fellowship—yea, even those who mar- 'ried in ignorance of such a clause in the Confession of Faith—the 'only condition on which their restoration is possible being a 'mutual agreement on their part to separate from each other—a 'course which few spiritual rulers in the Church would feel pre- 'pared to recommend:

'And whereas the visiting of such heavy censure, if it is not 'warranted by the word of God, involves in great guilt those who 'bear rule in the Church:

'Therefore, the Session of Knox's Church, in accordance with 'a recommendation of the Presbytery of Paris, respectfully and 'very earnestly overture the Synod to take up and consider this 'whole question, in order that, if no clear and sure foundation for 'such prohibition to rest on can be pointed out in Scripture, the 'Synod may take the necessary steps to have the clause in question 'removed from the standards of our Church.

(Signed) W. T. McMULLEN,
Moderator of Session.'

'Woodstock. April 4th, 1867.'

In June last, consideration of this overture was resumed. On a question of order, however, it was decided that it was not competent to entertain the overture in the particular form in which it was presented, as it contained an expression—the 2nd clause of the preamble—impugning the standards of the Church. Another over-

ture was then prepared and submitted, of tenor following:—

'Whereas many learned, eminent, and devoted Christian men 'in different Churches have expressed doubts as to whether mar- 'riage with the Sister of a deceased wife be prohibited by Holy 'Scripture:

'And whereas it appears to the undersigned questionable 'whether the passages adduced in the Confession of Faith do prove 'the unlawfulness of such marriages:

'Whereas, further, the practice of this Church in dealing with 'persons so married has been to excommunicate them, and the un- 'dersigned entertain doubts as to this manner of dealing by the 'Church being defensible on Scriptural grounds:

'Therefore it is humbly overtured to the Rev. the Synod, &c., 'that the portion of our standards, to wit: the 4th section of the '24th chapter of the Confession of Faith, which implicitly teaches 'the unscriptural character of such marriages, be carefully recon- 'sidered, and such relief be afforded to parties concerned as the 'Synod may deem to be conformable to the word of God.

W. T. McMullen,	John Jennings,
John Laing,	W. Ormiston,
D. Waters,	J. M. Gibson,
D. Wardrope,	Robert Wallace,
A. Young,	William Cochrane,
D. H. McVicar,	John MacColl,
R. Edmondson,	Wm. Moore.
Thos. Wardrope,	

'Montreal, June 10, 1868.'

After full discussion, the Synod resolved "That the "prayer of the overture be not granted, but that the "Synod affirm its continued adherence to the declara- "tion of the Westminster Confession on the subject of "the overture." This motion was carried over a proposal "to remit to Presbyteries to consider the subject "and report to next meeting of Synod, as to whether the "law of the Church should not be so altered as that the "Church Courts may be relieved of the responsibility of

"casting out of Church fellowship, on grounds so much "disputed, those who are so married," by a vote of 49 to 37; and on the yeas and nays being taken, by a vote of 52 to 37—not, indeed, a large majority.

This question is one of grave importance and far-reaching extent. Indirectly, it affects the claims of Scripture to be the guide of man, the obligation of the moral law, the powers of civil government, the principles of family and social morality. It has also practical issues which must be met. If, then, doubts are entertained to any extent within the Church as to the Scriptural basis of its doctrine or practice in the matter, they should be removed by a clear exposition of that basis. Men who feel aggrieved, whether in conscience, by being parties to the act of excommunicating others, or by being themselves excommunicated, should be shown "that our "rules of discipline do not rest on slight or arbitrary "grounds." And surely when fifteen members of Synod, and some of them prominent ministers of the Church, are of so doubtful opinion as to sign the above overture; when out of eighty-nine votes, thirty-seven were recorded for a reconsideration of our standards; when, as is known to the writer, there are three instances of persons so married (he may say, since last June, four instances) enjoying the sealing ordinances of the Church, and as rumour has it, one of our elders is in this position; surely, in these circumstances, a reconsideration of the subject by the Church is called for.

Principal Willis proposed the appointment of a committee to give its consideration to the subject. Although the object of that committee, as specified in the motion, is very one-sided; nevertheless, had the proposal been adopted, it would have been not only courteous but dutiful to wait for the action of that committee. The deci-

sion of Synod, however, has peremptorily prevented consideration of the subject ecclesiastically, and those who have doubts, and whose conscience is aggrieved, have no course left, save to draw attention to the matter through the press.

In this manner to agitate the Church is far from desirable, especially in a matter as delicate as it is perplexing. But if a sufficient vindication of the position of the Church is thus evoked, we shall all rejoice in the result. If, on the other hand, it shall be found, that there is no scriptural basis for that position, then there cannot be a doubt that all who love God's word and believe our standards to be in accordance with that word, will, notwithstanding whatever prejudice or feeling, follow the light, and labour to have the standards conformed to Scripture.

Such is the only apology the writer has for laying before the public the following pages. He is seeking for truth. He believes others are also. He has carefully perused all the works within his reach, which he has been told settle the question against him. His doubts remain, and, as he hopes to make apparent, are scarcely noticed in the works referred to. His desire is to see the positions which he lays down fairly and calmly considered. And he will gratefully acknowledge his obligation to any father or brother who, bearing with his doubts, will patiently meet the points raised and show us the more excellent way.

I.—State of the Question.

That we may avoid unnecessary and irrelevant discussion, it may be well to state distinctly that the writer has no sympathy with the views of those who say, either that in the matter of marriage Holy Scripture is not to

be our guide; or that the Old Testament is not to be held binding as to the question. He accepts the Bible as the judge—the whole Bible, from Genesis to Revelation. He further believes that Scripture teaches that there is such a thing as Incest; that God has given a law of Incest, forbidding marriage in certain relations; that in Leviticus xviii. chiefly this law is found; and that this law is of permanent obligation, binding on Christians.

On this understanding we propose to consider the marriage of a man with his deceased wife's sister, in connexion with the standards of the Canada Presbyterian Church, and the ordinance of that church, which excommunicates parties so married. As our Church professes to "sincerely own and believe the whole doctrine "contained in the Confession of Faith to be founded on "the word of God," we do well to examine the Scripture basis for the statements of the Confession. This is our main design. If other matter shall be introduced, it will be sparingly, not *as discussing* other points, as of History, Law, or Expediency, but only as throwing some light on the principal subject of consideration.

II.—The Standards of the Church.

The enquiry regarding the standards is three-fold. 1. Is the marriage in question forbidden by the Confession of Faith? 2. On what ground is the prohibition based in the Confession? 3. Is that ground found in the Word of God? Such enquiry is legitimate, as we are told (Conf., chap. i. 10) that "all decrees of councils and "doctrines of men," as well as articles of synods and assemblies, "are to be examined by Holy Scripture as "supreme judge."

1. Does the Confession forbid the marriage in question?

It says, chap. xxiv. 4, "Marriage ought not to be within the "degrees of consanguinity or affinity forbidden in the Word; nor "can such incestuous marriages ever be made lawful by any law of "man, or consent of parties, so as those persons may live together "as man and wife. The man may not marry any of his wife's "kindred nearer in blood than he may of his own, nor the woman "of her husband's kindred nearer in blood than of her own."

The answer to this query then must be: Yes, the Confession forbids the marriage. The relation is not expressly named, but it is implicitly stated. The argument is simply this: A man may not marry his own sister, therefore he may not marry his wife's sister.

2. On what ground is this prohibition based? It is not express prohibition—but INFERENCE. The inference is: As a man may not marry any of his wife's kindred nearer in blood than he may of his own; and as he may not marry his own sister, so he may not marry his wife's sister. The ground, then, on which the inference rests is the statement, "*A man may not marry any of his wife's kindred nearer in blood than he may of his own.*"

3. We next enquire: Is this ground found in the Word of God; and particularly in the passage quoted in the Confession of Faith as proof?

Let us first examine the passage quoted by the Westminster divines as proof. We find under letter K, in small type, under the text of the Confession, the passage rested on as proof of the statement above given in italics. It reads in full:

"Lev. xx. 19–21. And thou shalt not uncover the nakedness "of thy mother's sister, nor of thy father's sister; for he uncovereth "his near kin; they shall bear their iniquity. And if a man shall "lie with his uncle's wife, he hath uncovered his uncle's naked- "ness; they shall bear their sin; they shall die childless. And if "a man shall take his brother's wife, it is an unclean thing "he hath uncovered his brother's nakedness; they shall be child "less."

This is the only passage cited. Does it *prove* the proposition? The relatives specified are a man's aunts *by blood;* the wife of an *uncle*, and the wife of a *brother*. In other words, *a man's own blood relatives and the wives of blood relatives. Of the* WIFE'S *blood relatives* there is no mention in any way. And yet this is the only passage adduced to prove *that the "man may not marry any "of his* WIFE'S *blood kindred nearer in* BLOOD *than he may "of his own."* Surely the language of the overture is warrantable,—"it appears to the undersigned question-"able whether the passages adduced in the Confession "of Faith do prove the unlawfulness of such marriages."

Other passages, such as Gen. ii. 24, Matt. xix. 5, Eph. v. 28, 31, we are told, *may* be quoted in proof. We answer that, at present, we are dealing only with the passages cited in the Confession, and there, we repeat it, no such passage *is* cited. The proof is made to rest on the solitary Lev. xx. 19-21.

Nor will it do to say that Lev. xviii. having been already quoted under letter H, it is to be regarded as proof under letter K. Principal Willis well reminded us that Lev. xviii. is not quoted on the point in dispute. The compilers of the Confession were wont to re-quote a passage under successive letters, wherever they considered it as supporting successive propositions. Their plan was to establish each separate proposition by independent proof, that each may stand on its own sufficient evidence. It is not then inadvertently, but of purpose, that the Westminster divines quoted only this passage.

The passage contains (1) a statement that incestuous marriages will be punished. (2) A statement that a father's or a mother's sister is a man's flesh, and it is incest to marry her. (3) A statement that an uncle's wife is one with the uncle, and a brother's wife one with the

brother, and it is incest to marry them. As regards any *principle* to be gathered from the passage, all we can see is: (1) It is wrong to marry a woman who is a *blood relative*, or near kin. (2) It is wrong to marry a woman who is the wife of a blood relative, as *she is one with that blood relative*. Further than this, we cannot find our way. *No mention* has been made of a man's wife, or of any of *her* blood relatives; and surely no principle can be gathered from a passage in which they are not mentioned, which *must* apply to them. Far less can it be said that the principle *has been laid down* in this passage: "The man may not marry any of his wife's "kindred nearer in blood than those he may of his "own."

If it be said that the principle is laid down, 'that relation by marriage is a ground of incest equally with relation by blood,' we reply 'that this is indeed true of the relations *mentioned in the passage*, viz.: relations of affinity, where a woman is married to a blood relative; but surely it does not apply, far less *necessarily* apply, to relations not mentioned, viz.: those which are formed by a man's connection, through his wife, with women who have no blood relation to him. Whether these two relationships be of equal effect, as a bar to marriage, we do not now discuss; we merely note that as the former *is* in the passage, and the latter is *not*, the passage may prove *the one*, and not prove the other. In this case, the second, if proved at all, will require some additional passage to be cited.'

But other passages, it may be said, give us the principle, though this Lev. xx. 19 to 21 does not. Suppose so. Then admit that the Confession is defective in its proof texts. If passages giving us the principle *can* be cited, by all means let us have these proof passages;

print them below the text in small type, and there let them stand, an immovable foundation, "the word of the Lord, that endureth for ever," to remove doubt from every candid reader. Till this is done, we cannot but feel that the Confession of Faith contains one proposition for which it does not afford sufficient Scripture proof.

III. Scripture Teaching.

Having disposed of the passage cited in the Confession, the larger question remains,—Is *any* ground of prohibition of the marriage under discussion found in the Word of God? We have already stated that we accept Lev. xviii. 6 to 18 as the law of Incest. We must therefore inquire: Does this law forbid the marriage as incestuous? Now it may serve to meet the objection, that "if "we set aside this principle of the Confession some of "the most monstrous marriages which it is possible to "imagine must be legalised," as well as to make clear our own position—if we give here our interpretation of

1st. Leviticus, xviii., 6—18, or the Law of Incest.

1. Analysing the chapter, we have in verse 6 the general or radical principle enunciated, "None of you "shall approach to any that is near of kin to him," literally "flesh of his flesh;" also the reason, "to uncover "nakedness," that is, "it is incest;" and lastly the sanction—"I am Jehovah." The principle, then, thus laid down by God's authority, not as a dogma of natural religion, but a positive enactment of revelation is: "Nearness of Kin is a barrier to Marriage."

But within what degrees are we to understand this term, 'Nearness of Kin?' Is every man to set his own limits, and draw inferences on his own principles? No. God specifies the limits and lays down the principles in the following verses:

(1.) We have specified, *relatives of the* MAN.

(*a*) His *own female* BLOOD *relatives*, who are prohibited, verses 7, 9, 10, 11, 12, 13.

(*b*) *His own male* BLOOD *relatives*, whose wives are prohibited, verses 8, 14, 15, 16.

(2.) We have specified, *Relatives of the Wife*, who are prohibited.

Blood relatives, verses 17, 18.

(3.) We have specified, certain *principles* which are to guide us in ascertaining what relations come within the forbidden degrees, as v. 10, 17, 8, 16, &c.

Now, it will surely be admitted that we have here *positive enactments and principles laid down*, so that we are not at liberty to extend the prohibitions beyond the terms of the statute, nor to fall back on *natural* principles, or add principles of *our own*. The law is to be our only guide, and that as we find it laid down.

2. Before giving in detail our table of forbidden degrees, we may state the Principles according to which that table is formed.

(1.) Children are one with, or are in their parents. This is *expressly* stated: v. 7, "She is thy mother; v. 10, The nakedness of thy grand-daughters is thy own nakedness; and v. 17.

(2.) The wife is one with the husband; v. 8. The nakedness of thy father's wife is thy father's nakedness; v. 16, The nakedness of thy brother's wife is thy brother's nakedness; also chap. xx., 20 and 21.

(3.) The sister is one with the brother: v. 11, She is thy sister, and v. 12, Thy father's sister is thy father's flesh; also, ch. xx., 19.

These three principles we find *expressly* laid down. It is manifest at a glance that *all* their applications are not mentioned, and we must, by applying them to the many

relations of a man, ascertain which of these relations are prohibited.

In the following table, we mean, by *Direct Line*, the relation of parent and child, or the line of generation ascending and descending; by *Collateral Line*, the relation of brother and sister. Under *Blood Relatives* we class those who are either in the direct line of generation or in the collateral, and who partake of the same blood; under *Consanguineous Affinity*, those women who are married to blood relatives and so partake of the same blood, or are one with them; under *Simple Affinity*, those women who are blood relatives of the Wife.*

Guided then by the foregoing principles, we develop from Lev. xviii.

3. THE TABLE OF FORBIDDEN DEGREES.

I. Blood Relatives.

1. DIRECT LINE.		2. COLLATERAL LINE.	
(a) Expressed.	(b) By inference.	(a) Expressed.	(b) By inference.
Mother.	Father's Mother.	Father's sister.	Brother's daughter.
Son's daughter.	Mother's Mother.	Mother's sister.	Sister's daughter.
Daughter's Daughter.	Daughter.	Sister.	

II. Consanguineous Affinity.

Father's wife	Father's father's wife.	Father's brother's wife.	Brother's son's wife
Son's wife.	Mother's father's wife.	Mother's brother's wife.	Sister's son's wife.
	Son's son's wife.	Brother's wife.	
	Daughter's Son's wife.		

* It is said that the ground of prohibition is not consanguinity, but a regard to moral propriety, in preventing improper intimacy between men and women who are thrown into familiar intercourse; and verse 17 is quoted as an instance in which there is no *blood* relation. Now supposing this granted in reference to verse 17, (although, perhaps, the principle of descent and the parental and filial relation of *guardianship* and obedience would account for its inclusion within the law,) is it not manifest that the verse applies the principle *only to the direct line*, and verse 18 to the collateral line, during the life of the wife? The moral impropriety ends when the wife dies. So says Moses, whatever others say.

III. SIMPLE AFFINITY.

Wife's mother.	Wife's father's mother.	Wife's sister, during the wife's lifetime.
Wife's daughter.	Wife's mother's mother.	
Wife's son's daughter.		
Wife's daughter's daughter.		

(1.) This table contains twenty-eight out of the thirty-three degrees which are found in our common Bibles. The five which are in the latter and not in our table are, wife's father's sister, wife's mother's sister, wife's sister, wife's brother's daughter, and wife's sister's daughter; or to use the terms of the table, the relatives in the collateral line of simple affinity, or the wife's blood relatives in the collateral line. It may be asked, why not include them? We reply, *because Moses has not included them, nor given any example applicable to them, nor laid down a principle which will include them*—just as he has not included first cousins, nor set down a limit which would reach them.

(2.) It may further be asked, why do you not develop a table of degrees prohibited to women? We reply, Because it is unnecessary; for if men do not marry within forbidden degrees, women *cannot;* and when the *relation* is forbidden, the prohibition lies on both the contracting parties, on the woman as well as the man—she must be included. Our principal reason, however, is, that *Moses has not given us a law for women,* nor laid down principles to regulate them; and as we are simply showing what Moses ordained, it is out of place to set forth in our exposition something which he did not ordain, no matter what may have been the reason of the omission. We go as far as the law which we have goes, and we stop where it stops. Dr. Lindsay in his 'Inquiry,' page 76, reminds us "that those who hold that

"consanguinity and affinity constitute equal obstacles to "marriage, do not set out from this as *a first principle*: "nor do they even conceive it to be *obviously implied* in "verse 6; but they reach it as a *deduction* at the end of "their enquiry, in consequence of finding that the pro- "hibitions laid down refer *de facto* just as frequently "to affinity as to consanguinity, and mark out the "one to just as remote limits as the other. It is a "deduction from the series of *particular cases adduced* "as examples by Moses; and the fact that a grand-daugh- "ter and a wife's grand-daughter are both specified, is one "of the proofs of the conclusion so drawn." But how can we find proof of this conclusion being applicable to a case which is *not specified*, viz., the wife's relatives in the collateral line? They are not in the *series of particular cases adduced* by Moses as examples; the *prohibition* de facto *does not refer in a single example to simple affinity.* How, then, at the end, can a general principle, which is admittedly a deduction based on a series of particular instances, be held as including a particular instance not in that series? The principle may be true of every instance specified, and yet be untrue of a relation which is not specified. This, we think, is the case. The principle is correctly applied to *consanguineous affinity*, but is not applicable to *simple affinity* in the collateral line, and that solely *because Moses has not* de facto *so applied it.*

Another remark of Dr. Lindsay's seems important in this connection—page 17. "Moses employs the very "same terms in speaking of both kinds of relationship, "viz., consanguinity and affinity; and not only so, but "he intermixes the cases, as if the idea of there being "any difference between them had never struck him." How far this is correct, any one may judge for himself. With the exception of verse 8, all the verses between 7

and 13 refer to blood relatives; and with the exception of verse 8, all the instances of Consanguineous Affinity are to be found between verses 14 and 16—Simple Affinity being confined to verses 17 and 18. This is scarcely intermixing the cases.

In this respect, however, Dr. Lindsay's remark is very true, that Moses' order of stating the instances and use of the same terms shows that he regarded Blood Relationship and Consanguineous Affinity as equally a bar to marriage, and within the same limits. While the change of expression in verse 17, and the addition, "It is wickedness," found only in connection with *wife's relatives*, indicates that "the idea of difference" between the relationship of verses 14, 15, 16, and verse 17 "*struck* him." And the still greater change of expression in verse 18, when he comes to speak of the *Collateral line of Simple Affinity*, indicates that he was sensible of a still more *striking* difference between that relationship and those preceding. What that difference is we shall now try to show.

2ND. LEVITICUS XVIII.—18

The words are "Neither shalt thou take a wife to "her sister to vex *her*, to uncover her nakedness, beside the other, in her life time." Literally translated, it is, "And a woman to her sister thou shalt not take, for vex-"ing, to uncover her nakedness, beside her, in her life."

1. We regard this as part of the law of *Incest*, as treating of a prohibited marriage. The relationship prohibited is evidently a wife's sister, or the wife's blood relative in the collateral line; that is, the collateral line of Simple Affinity. A *reason* is next given for the prohibition, "for vexing," whatever that may mean. Then follows the usual phrase to declare the connection *inces-*

tuous, "to uncover her nakedness." And, lastly, comes a limitation as to time, "beside her in her life time."

2. Taken, then, in its obvious sense, and in its connection with the preceding part of the law, it seems to mean—A man is forbidden to marry his wife's sister; thus vexing her by doing what is incestuous beside a sister and during her life. Hence a man is forbidden to marry his wife's sister during her life. This by no means *proves* that he may marry her when the wife is dead, although it *implies* it. For upon the recognized principle, that in prohibitory legislation a man has the right to do anything not specified in the enacting statute, it follows that a man may thus marry, unless a prohibition be found in some other passage. Whether there is such a prohibition elsewhere, we shall by and by consider. We are, however, told that, If the thing is incestuous during the woman's life, it must still be incestuous after her death. Now, if it can be shown that this marriage is incestuous from other passages of Scripture, then this verse 18 cannot make it not incestuous, or *justify* it. But if no other passage can be shown proving it incestuous, this passage, though declaring the marriage incestuous during the wife's life, does not condemn it after her death. For, as Dr. Lindsay well shows, "Incest is just a connec-" tion which is forbidden on the ground of relationship, " by a competent authority." Marriage with a sister was not incest to Abel, Cain, or Seth; because that marriage was not forbidden, but enjoined by God on them. It is, however, incest to us, because it is forbidden by God. Even so, to marry a wife's sister during her life *is* incest, as it is forbidden in verse 18. It *may not*, however, be incest after the wife is dead.

Such, then, is a full statement of the way in which we feel constrained to interpret Leviticus xviii.—6 to 18.

And the Table of Forbidden Degrees on pages 16-17 gives the practical results of that interpretation. We have thought that giving a positive statement of what we regard as the Law of Incest would serve most clearly to set forth our position on the disputed relation. But we by no means wish to overlook the objections which will be made to our view. On the contrary, we hope now to be able more intelligently and satisfactorily to consider the statements of those who differ from us.

IV. Scripture Arguments against the Marriage.

1. To meet the implied permission of the marriage which we think is to be found in verse 18, it used to be said that this verse is merely a prohibition of polygamy. To support this opinion, great stress is laid on the marginal reading, "One wife to another thou shalt not take," &c. Dr. Gibson seems still to cling to this view, endorsing the argument of Sereno Dwight as conclusive. In 1867, the majority of our Synod seemed to favour it. In 1868, however, it found only one advocate, and even he only quoted in support of it the new version of Rev. Robert Young, but laid no stress on it as an argument. Dr. Lindsay, in his able, candid, kindly conceived, and in many respects most satisfactory "Inquiry," gives up this view. Nay, he grounds a great part of the most telling part of his argument against legitimising the relation, on the fact that polygamy existed among the Jews, and that Leviticus xviii. 18 is to be interpreted in view of the "polygamic connection which is spoken of." No more satisfactory answer to Mr. Dwight can be found than that part of Dr. Lindsay's book in which this idea of the verse being a prohibition of polygamy is discussed. As most of our readers, however, cannot have access to the "Inquiry," it may not be amiss to show why we

reject the marginal reading, and hold to the text of the English version of the Bible.

This translation rests on the supposed use of a Hebrew idiomatic phrase, 'a woman to her sister,' which, it is said, means 'one to another'. Now we object, that in order to obtain this meaning: (1.) The words 'woman' and 'sister' are taken in a sense different from that in which they have uniformly been used in the context. (2.) It is not the idiomatic phrase for one *woman* to another. That is invariably 'a woman and her *neighbour*,' not sister. When the phrase in the text occurs, it is without an exception applied to things without life; and to render the phrase in this place 'one woman to another' is to give it a meaning which it has in no other place in the Hebrew Bible. (3.) When the phrase is used idiomatically, it is uniformly preceded by a word in the plural number to which it refers. To meet this *usus* the verse would require to read 'and *women*, a woman to her sister thou shall not take;' whereas the word 'women' or 'wives' is awanting. (4.) In verse 29 it is said: "Whosoever shall commit any of these abominations, even "the souls that commit them shall be cut off from among "their people." If then this verse forbids polygamy, the polygamist was to be cut off. Instead of this, however, we find polygamy existing among the Israelites. Even David, the man after God's own heart and the chosen Head of the covenant people, was a polygamist, and was not cut off. (5.) If the verse is a prohibition of polygamy, it does not belong to the law of incest, and the phrase 'uncover nakedness' is irrelevant, for polygamy was not incest.

We may, therefore, safely dismiss the statement objected to, saying with Principal Willis, that it must be conceded that the weight of evidence is in favour of the

text of the authorised version, and with Dr Lindsay "the "verse before us cannot be viewed as a condemnation of "polygamy. It must be two sisters, in the literal sense "of the term, that are spoken of, and not merely two "wives."

2. But this brings us to the main position. And although the argument is not stated as it is in the Confession, it is to the same effect. We have admitted that verse 18th does not *justify* the marriage in question, and have asked: does any other passage *forbid* it? We are at once answered, Yes; it is forbidden in verse 16. The words are: 'Thou shalt not uncover the nakedness of thy brother's wife.' Hence it is inferred that a woman is forbidden to marry her husband's brother. On what principle? we ask; and we are told, that *the relation is the same,* or parallel, or like, or analogous. Now it is this principle which must be established, or proved untenable, in order to settle the question in dispute.

It is asserted, that the relation between a man and his brother's widow is the *same* as between a man and his wife's sister. It is agreed also that the question is; are they the same *in law*, as laid down in Leviticus?

It is then aside from the point to prove that the propinquity is the same and the *simple* relations the same, that is, that in both cases there are two relations, (1) blood relation, (2) affinity relation, and this of equal nearness. No one calls *this* in question. What we call in question is the sameness of the *compound* relation—*whether, according to the law of Moses, a relationship formed by blood and marriage is the same as a relationship formed by marriage and blood:* or to use the terms already employed, we ask whether, according to the law of Moses, simple affinity in the collateral line is the same *in effect* as consanguineous affinity in the collateral line. This

we think cannot be shown *from the law of Moses*, inasmuch as simple affinity in the collateral line is not mentioned in that law save in verse 18, in which marriage is not prohibited after the wife's death. We are therefore thrown back on principles, and to these we must look.

(1.) We are told that, *e converso*, if a man is forbidden to marry his brother's wife, a woman is forbidden to marry her sister's husband; for this is the *analogous* relation. But we may ask where *in the law of Moses* is the warrant for interpreting its clauses *e converso?* It is by no means axiomatic that *all* laws may be so interpreted.

But it may be replied all *moral* laws are binding on woman as well as man, and as this is a moral law it must be binding on the woman: consequently she is forbidden to marry in any relation parallel to that in which the man is forbidden. We shall now examine this position.

We at once concede that any moral prohibition includes the woman in all cases in which she *can* be included, and *so far as she must* be included. A moral prohibition laid on man, as *Homo*, includes the woman. If, however, the prohibition is addressed to the man, as man, *vir*, it *cannot* include the woman. The prohibitions in Leviticus are generally of this kind. Some indeed, as Lev. xx, 16 are addressed to the woman and exclude the man. Others, as Lev. xx, 17, are addressed to both man and woman. The prohibitions of chap. xviii, however, are addressed to the man, *vir*. They include the woman only in so far as by the nature of marriage she must be included. For example, a man is forbidden to marry his sister; but a woman cannot marry her sister; and therefore is included in the prohibition only in so far as, from the nature of marriage, it follows that when a man marries his sister the woman must necessarily marry her brother. The *relation* is forbidden, and the prohibition

lies on both parties who form the relation. *Thus far only is it true, that the Mosaic marriage laws include the woman as well as the man.* Wherever a certain relation is forbidden to a man, that *same relation* is forbidden to the woman with whom alone it could be formed.

It is quite another thing to assume that, because a man is forbidden to marry in *one* relation, therefore a woman is forbidden to marry in *another* relation, which is only parallel to it, and not the relation prohibited. It is the right to *assume* this conversion of the law which we question. We must have proof to show that this may be done.

Here we are met with the statement, that husband and wife are one, and as Blackstone puts it, "Husband "and wife being considered one flesh, those who are re- "lated to the one by blood are related to the other by "affinity; therefore a man, after his wife's death, cannot "marry her sister, aunt, or niece."

But again we ask, what is meant by "one flesh?" Does it mean that they have equal rights? Certainly not according to the law of Moses. In it, man is emphatically the head of the woman. He may buy his wife, marry her without consent, betroth her to another, divorce her, as he sees fit. She can do none of those things to him. He may have many wives and concubines, and be no adulterer; she, as an adulteress, must die if she take a second husband. Lev. xx, 10. The same distinction is found in Roman law, English, and generally in Civil law, and forms the ground of what has sometimes been denounced as partial legislation. Even nature teaches the distinction. For who does not regard as revolting, as subversive of all morality, and of the family institution, to speak of polygamy among women? Who would plead for that? Men may have more wives

than one, but there is no confusion or mingling of blood, so long as wives are chaste. The superiority of man to woman in the marriage relation cannot be annulled, and the law of Moses is in uniformity alike with nature and human law. This accounts for what we find, that the prohibitions are laid on the man and not on the woman. They include woman, as a prohibited marriage cannot take place without a woman being a party. But we are not warranted, because husband and wife are one, in inferring that therefore *everything allowed* to the husband is allowed to the wife, and *everything forbidden* to the husband is forbidden to the wife, *e converso*. Moses' law knows no *such oneness* or equality.

Another thing is worthy of note. Dr. Lindsay says, page 85, "The nakedness of the husband is the naked-"ness of the wife, and the nakedness of the wife is the "nakedness of the husband. *This is reiterated again "and again throughout the chapter in Leviticus.*" This is said in vindication of the identity of the relation as between man and woman, and it is *essential* to Dr. Lindsay's argument. Now, what is to become of the argument when it is made manifest, as a glance at the chapter will make it, that instead of being *reiterated, it is not once said that the nakedness of a man is the nakedness of his wife?*

It would be quite contrary to the whole legislation to say so. The wife's nakedness is the husband's, but the husband's is not the wife's. The man may, where polygamy exists, marry a second wife, but he does not thereby injure his first wife,—that is, uncover her nakedness: he does nothing abominable. But a woman cannot receive another man without doing something vile, abominable, for she thereby uncovers her husband's nakedness. This may appear one-sided, but whether it

is or not, it is the law of Leviticus, and to that alone we appeal.

(2.) Again it is objected, "The ground of incest in "the Levitical law is as truly affinity as consanguinity," and therefore a man is as truly forbidden to marry a sister by marriage as a sister by blood.* We must now look at this statement intelligently.

By affinity is meant relationship by marriage. A brother's wife is related to a man by affinity, and all prohibitions of marriage between a man and the wife of his blood relatives are prohibitions regarding degrees of affinity. This we have called *Consanguineous Affinity.* The use of the word has, however, been further extended, and it has been applied to the relationship of a man to his wife's blood relatives. This we have called *Simple Affinity.* Now, let us remember that we have two *distinct and perfectly different relations* under the name of affinity, and let us not deceive ourselves by the ambiguous term. The first results from the marriage of a woman with the man's blood relatives; the other is the relation in which a man stands to his wife's blood relatives.

The law of Moses legislates for both these affinities. It forbids the man to marry any woman who is married to his blood relative, whether in the direct line of generation or in the collateral. That is, it prohibits marriage with a woman related by Consanguineous affinity, both in the direct and collateral lines. It also forbids a man to marry any woman who is the blood relative of his wife in the direct line. That is, it prohibits marriage with a woman related by Simple affinity in the direct line. *It*

* Assuming this, and interpreting the law on the principle stated in the Confession; what need is there of verse 16? A woman may not marry her own brother; therefore, she may not marry her husband's brother. Yet Moses prohibits this. Is it not manifest that *he* did not assume the principle?

does not prohibit marriage with a woman related by Simple affinity in the collateral, except during the life of a sister who is wife to the man. Thus, while we admit that in some cases affinity is a bar to marriage equally with consanguinity, we distinctly exclude from the forbidden degrees relatives by Simple affinity, in the collateral line, after a wife's death; and we do so because Moses has not included them.

Thus, the objection under review is vain, inasmuch as it is not true of *all* affinity that it is a bar to marriage equally with consanguinity, but only of one kind of affinity in both lines, and of the other in the direct line; while the relation in question—'wife's sister,'—falls under the collateral line of simple affinity.*

3. Another distinct and independent argument is based on the 13th verse, taken in connection with verse 17. It is this: In verse 13th, a man is forbidden to marry his mother's sister, because she is her near kinswoman; in verse 17th, he is forbidden to marry his wife's grand-daughters, because they are her near kinswomen. But as he may not marry near kinswomen of his wife, verse 17—and sisters are near kinswomen—therefore, he should not marry his wife's sister.

Let us now examine this argument. In verses 12 and 13 we have to do with *blood* relations; in verse 17 with relations of simple affinity. In the first case, a man is forbidden to marry his aunts by blood, and *because* they are blood relatives, as is clear from Lev. xx. 19, "He uncovereth *his* near kin." In the other case there

* If affinity and consanguinity are *equally and in the same sense* a bar to marriage, it would follow that as a man may not marry his own brother's wife, so he may not marry his wife's brother's wife; and on the *e converso* principle, as a woman may not marry her own sister's husband, so she may not marry her husband's sister's husband. This, however, is not asserted. But we are told that *double* affinity is not in any case a bar to marriage. How so? Is not this to give up the assumption?

is no question of blood. It is not said, 'a man shall not marry two sisters,' but only that *certain* kinswomen of his own and certain kinswomen of his wife are prohibited; but the sister is not mentioned, in verse 17, among those prohibited kinswomen of his wife. *All* near kinswomen are not prohibited, only the near kinswoman of a mother in the collateral line: verse 13; and of the wife in the direct line: verse 17.

The fallacy is that of an Undistributed Middle.

Some near kinswomen of the wife are prohibited.

A sister is a near kinswoman.

Therefore, a wife's sister is prohibited.

But nothing can be proved from two particular premises. Near kinswoman has not been distributed, either by being the subject of a universal, or the predicate of a negative proposition. Hence, it is not proved that a wife's sister is prohibited. Let us apply the same argument to verse 13th.

Some near kinswomen of an aunt are prohibited (v. 13).

A grand-daughter is a near kinswoman (v. 17).

Therefore an aunt's grand-daughter, or a second cousin, is prohibited.

Is that conclusion accepted?

To establish the argument under notice, we would require a statement to the effect, that being the sister of a man's wife is a bar to marriage, on the principle that "Two sisters are one flesh." Now this is nowhere said —but the contrary is implied. The wife becomes one with her husband and forms a new family; so that supposing two sisters married to two strange men, they would be one flesh respectively with their husbands, but would not be one flesh with one another *in the same sense*,—and this is the only sense in which the expression has any weight in a question of marriage. But it is said

impatiently, What nonsense! are not a sister and sister as much one flesh as a brother and sister? We answer no, not in the only sense affecting the argument. A man is forbidden to marry his sister. By doing this there would take place confusion of blood. The thing is not possible in the case of sisters, therefore it needs no prohibition. Just so a man might marry his brother's wife, which would produce confusion of blood, therefore it is forbidden; but though a man should marry his wife's sister, there is no confusion of blood, therefore it is not prohibited for that reason, but for a special one, "to vex her." Strange as it may seem, in the two cases the man and woman are not brother-in-law and sister-in-law, in the same sense. This will be apparent from the simple statement that the children of the one sister-in-law are heirs-at-law of the man; the children of the other are not in the line of succession at all. As, therefore, it is nowhere said by Moses that sisters are one,* all deductions from that principle have no warrant from the Levitical law.

V. Sum of Argument.

Having thus set aside the objections urged against the interpretation which we have given of Leviticus xviii. 6 to 18, we sum up the result as bearing on the marriage in question. The law of Moses does prohibit the marriage during the life of the first wife, but not after that event. Taking into account, also, the circumstances of the Jews when the law was given, we understand verse 18 as teaching: (1) That if a man marry two

* In Lev. xviii., 13.—Though an aunt is said to be flesh of the man's mother, or one with her, the ground of the prohibition is not her oneness with her sister, but her *blood* relation to the *man*; as is evident (1) from the place which the verse has among blood relatives, and (2) from Lev. xx., 19, where it is expressly said, "He uncovereth *his* near kin."

wives the second must not be sister to the first; (2) That though the first be divorced, he cannot marry the sister; (3) That should the first wife die, the man is loosed from the law of his wife, so far as to be permitted to marry her sister.

We are strongly confirmed in this view by the following consideration: Had Moses intended to prohibit marriage with the relatives of the wife in the collateral line—judging from the context, we should have expected verse 18 to read, "And thou shalt not uncover the naked-" ness of a woman and her sister, for she is her flesh." Now instead of this we have a statement which, in its obvious and confessedly easy sense, implies that a man may marry his wife's sister when the wife is dead. Not only so, but there is a departure most marked from the ordinary form of expression (1) in assigning a reason, "to vex her;" (2) in setting a limit, "during her life," which in effect says, as when the wife is dead the reason no longer exists, so the limit then expires. If we are right in this construction of the passage, not only is the marriage in question not prohibited, but it is implicitly sanctioned.

In view of the whole preceding argument, we feel convinced that, though the standards of the Church prohibit marriage with a deceased wife's sister, the ground on which this prohibition rests is not established either by the proof adduced in the Confession, or by the Law of Incest as laid down in Lev. 18. We think, therefore, that we are justified in asking the Church to reconsider its position, and take steps to justify its practice, or alter it

VI. General Considerations.

Our main object having been accomplished, we might leave the subject here. To do so, however, would leave a very false impression on the reader of our opinion on

the General Question. While we are convinced that the Law of God does not prohibit the marriage in question, we are far from thinking that it is a proper one. We plead for liberty of conscience, and shrink from saying anything in God's name, and by his authority, which we are not sure is in accordance with his revealed will. Still, we think that very much may be said against such marriages. Perhaps they can even be shown to be wrong in a lower sense of that word. Though they are not wrong as being condemned by God, they may be wrong, far wrong, as being most inexpedient—"lawful, but not expedient."

1. Such marriages are undoubtedly opposed to the general sentiment of Christian Society. It matters not to what that sentiment may be owing; it is the *fact* that has weight. It is most inexpedient to do violence to the general sentiment of any community on a moral question, and therefore such marriages should be avoided. There may be cases in which a man should brave public opinion. This, however, is not a case in which any principle has to be maintained amid dishonour and disapprobation.

2. These marriages seem calculated to have an injurious effect on the harmony and peace of families, and on the confidence which should exist between their various members. The preservation of the purity of domestic life is of chief importance, and it is well that no usage of society should endanger it. We are aware that views are held strongly as against what we now say. Nevertheless, we think that when men and women are constantly meeting on terms of the greatest domestic intimacy, it should be perfectly understood that marriage between them is out of the question. In this light, we think these marriages inexpedient, and thus wrong.

3. These marriages, as the law is now, occasion confusion in Church and State, and therefore are inexpedient. So long as the law does not enjoin sin, it is expedient to conform to it, and thus prevent the evil consequences of illegitimacy, with its civil disabilities and ecclesiastical censures.

4. These marriages are wrong also as being contrary to law. The Christian is bound for conscience sake to obey the law. He is not at liberty to break it. If he is satisfied that the law is not good, he should try to have it repealed; but while it is law, it should be obeyed. As far as we can ascertain, the marriage in question is illegal in the Province of Quebec, and the offspring is illegitimate. In the Province of Ontario, the marriage is contrary to law, and may be voided during the life of the contracting parties. If not then voided, the offspring is legitimate. As there are no Ecclesiastical courts to void such marriages, it has been supposed by many that they cannot be voided. It is, however, by no means certain that in case of application being made, such marriages can not be voided by the Civil Law Courts in the absence of Ecclesiastical Courts. While, then, the law remains as it is, such marriages are highly inexpedient and wrong.

5. If we be further asked our opinion as to whether the law should be repealed which prohibits these marriages, we reply: We have no wish to see it repealed. Though the law of Moses sanctioned the marriage, it seems to us that the Christian religion, in abolishing the Jewish practices of polygamy and divorce, and in making the woman more the equal and companion of man than formerly; also in establishing usages which allow greater intimacy between man and woman in family relations, has weakened that permissive sanction. We favour

greater rather than less stringency in legislation regarding marriage, and have no wish to see the law repealed. We desire to discourage everything which savours of immorality, or tends thereto. Such, without enlarging on these points, are our feelings on the general question.

VII. Excommunication.

We come now to look at the discipline of the Canada Presbyterian Church in connection with such marriages. We believe that discipline should always be administered in strict accordance with the will of Christ as made known in his word. Is it any wonder, then, that fifteen rulers in the Church, not satisfied that the Scripture does forbid these marriages, should come forward respectfully but firmly stating their doubts, and ask the Synod to reconsider the question with the view of affording relief to parties concerned, in such way as the Synod may deem to be conformable to the Word of God? Could we ask less? The Synod refused our prayer, and still insists that we, as office-bearers, shall in the name and by the authority of Christ cut off and cast out of his Church visible, without any hope of future restoration, all persons thus married, even though we cannot find Christ's authority for doing this! In these circumstances, can we do less than appeal to the Church through the press? Can we be blamed for taking the only course left us either to evoke such a vindication of the position and practice of the Church as may give satisfaction to us and others interested, or to bring the majority to think with us and grant the relief we must have.

It is a solemn thing to cut off any poor sinner from the Church of God. It is a serious matter to have families growing up among us, against whom, while children, we must shut the door of the visible Church, and leave

them as heathen, without the covenant of promise. In cases of known presumptuous sin, when men are unrepentant and rebellious, it must be done. Even then we wait long and try much. And must we cast out at once men and women of irreproachable lives, who have heretofore given evidence of an interest in Jesus, and still are living consistently, simply because they cannot see that God has forbidden marriage in this relation, and have contracted such marriages, it may be ignorantly, but still in good conscience? Already some Sessions refuse to carry out, or evade the discipline of the Church. They will not restore the penitent fornicator and adulterer, the drunkard and the thief, and yet grant no *locus penitentiæ* for estimable men and women, to whom it cannot be shown that they have done wrong. It is of the last importance to the Church to carry the conscience of the people with her. That is not done by bearing down sincere doubts by the vote of a majority and a peremptory refusal to reconsider any position assumed by the Church.

We do not even hint at what should be done. We can leave that for the Synod to decide, under the guidance of our Great Head. The Synod must assume the responsibility in a matter so weighty as the repealing of an ordinance of Excommunication. We shall be satisfied if the Synod calmly consider the subject. It has the example of more than one church and denomination to afford direction. But we put fairly before our readers the alternative; parties so married must either dissolve the connection or submit to excommunication. Allowing that it was wrong to marry, may it not be a greater wrong to dissolve the marriage, seeing that it is not incestuous? Can we then go to respectable men and women, whose lives perhaps condemn our own, surrounded by

hopeful children, dear to them as ours are to us; and say 'you must dissolve this bond that has united you, and break up this happy home, or you and your house must remain permanently cast out of the pale of the Church of God?' Can we do this, when all our warrant for saying so is a clause in a Confession, framed by fallible men; which clause is not established by the Scripture passages adduced, and cannot be established by any other word of God's? Give us relief, we implore, from this crushing doom of Excommunication and from the guilt of pronouncing it, if it is not in accordance with the will of Christ. How to mark disapprobation of these marriages and to discourage them by a proper discipline, it may be difficult to determine. Still, the Church should calmly look the matter in the face, and above all things eschew the guilt of casting out any one whom Christ has received, and against whom no moral delinquency can be established.

MARRIAGE

WITH A

DECEASED WIFE'S SISTER

PROHIBITED BY THE WORD OF GOD.

BY

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MINISTER OF COOKE'S CHURCH, TORONTO.

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Minister of Cooke's Church, Toronto.

It is taught in the Westminster Confession of Faith that a man "may not marry any of his wife's relations nearer in blood than he may of his own." This implies that he may not marry his wife's sister, aunt, or niece, inasmuch as he is not at liberty to marry his own sister, aunt, or niece. The Scriptural authority of this doctrine has been called in question at late meetings of the Synod of the Canada Presbyterian Church, and a member of the Synod, the Rev. John Laing, of Cobourg, has published a pamphlet in which it is denied that there is any foundation for the doctrine in the Word of God. Other publications of a similar character have been circulated in the Province. Marriages within the forbidden degrees have been actually contracted between persons whose position and character give weight to their example. In some Churches the members are permitted to form such alliances without being subjected to discipline; and attempts are being made to sanction a similar practice in the Canada Presbyterian Church. Many of our people, and some of our office-bearers have apparently given to the subject but little attention. Some, who have studied it, are in doubt as to the validity of the arguments from Scripture, and ask for fuller discussion. In these circumstances I deem it proper, believing as I do that the marriages in question are forbidden in the Word of God, to present a brief statement of the Scriptural argument. As it is prohibition of marriage with a deceased wife's sister which is chiefly questioned, so this particular point will be chiefly kept in view.

It might be useful to show that, apart from the Scripture argument, there are strong arguments against marriage with a deceased wife's sister on grounds of expediency. It is less necessary, however, to dwell on these, as their force is admitted by many who question the argument from Scripture. Thus it is satisfactory to find, that, while contending that the Scriptures permit the marriage, Mr. Laing in his pamphlet is strongly opposed to it on grounds of expediency. "While we are convinced (he says) that "the law of God does not prohibit the marriage in question, we "are far from thinking that it is a proper one." (p. 32) He gives good reasons also for this opinion. "Such marriages (he says) "are undoubtedly opposed to the general sentiment of Christian "Society. It matters not to what that sentiment may be owing; "it is the *fact* that has weight. It is most inexpedient to do "violence to the general sentiment of any community on a moral "question, and therefore such marriages should be avoided." He says also:—"These marriages seem calculated to have an "injurious effect on the harmony and peace of families, and on the "confidence which should subsist between their various members;" and further—" we think that when men and women are con- "stantly meeting on terms of the greatest intimacy, it should be "perfectly understood that marriage between them is out of the "question. In this light we think these marriages inexpedient, "and thus wrong." He moreover considers that "these marriages, "as the law is now, occasion confusion in Church and State, and "therefore are inexpedient. So long as the law does not enjoin "sin, it is expedient to conform to it." He further adds that "these marriages are wrong also as being contrary to law." He thinks them illegal in the Province of Quebec, and in the Province of Ontario contrary to law, and voidable during the life of the contracting parties—that, notwithstanding the contrary supposition entertained by many, "it is by no means certain that, in case of "application being made, they cannot be voided by the Civil Law "Courts in the absence of Ecclesiastical Courts." He holds, therefore, that "while the law remains as it is, such marriages are "highly inexpedient and wrong." These reasons, founded on the prevailing Christian sentiment, the happiness of families, and public law, have certainly great weight; and might easily be illustrated and confirmed by an appeal to an overwhelming array of facts and authorities. But as their force is frankly admitted, I confine myself to the argument from Scripture.

The Divine Law of forbidden degrees is found in the 18th chapter of Leviticus. That the law there laid down is binding on Christians was admitted on all hands by those who took part in the discussion at the late meeting of the Synod. Mr. Laing says also in his pamphlet (p. 19) that he "believes that Scripture "teaches that there is such a thing as Incest, forbidding marriage

"in certain relations; that in Leviticus xviii. chiefly this law is "found; and that this law is of permanent obligation, binding on "Christians." There can indeed be little doubt of this. Violations of the law are spoken of as sins of the Egyptians and Canaanites. It is not, therefore, a mere Jewish law. The following is the language by which it is introduced and followed:—"After the doings "of the land of Egypt, wherein ye dwelt, shall ye not do, "and after the doings of the land of Canaan, whither I bring "you, shall ye not do, neither shall ye walk in their ordinances" (verse 3). "Ye shall therefore keep my statutes and my judg- "ments, and shall not commit any of these abominations, neither "any of your own nation, nor any stranger that sojourneth among "you (for all these abominations have the men of the land done, "which were before you, and the land is defiled)," (verses 26 and 27). In the New Testament we find the Apostle Paul saying (1 Cor. v. 1.)—"It is commonly reported that there is fornication "among you, and such fornication as is not so much as named among "the Gentiles, that one should have his father's wife." Plainly the Apostle assumes that there was some code different from that known among the heathen, which Christians were bound to acknowledge, and which prohibited a man's marriage with a stepmother. No law on this subject is found in the New Testament, but only in the Books of Moses, to which therefore Christians must look for guidance in respect to the prohibited degrees.

Let us now examine the Divine Law which is laid down in Leviticus. Leaving out of view, for the present, Lev. xviii. 18, (which, according as we adopt the rendering in the text, or in the margin, forbids the marriage of two sisters, while both are alive, or simply, of any two women, while both are alive), we find the following are the only relatives whom a man is *expressly* forbidden to marry.*

1. His mother (Lev. xviii., 7),.....a relative by blood.
2. His father's wife (*i. e.* stepmother) Lev. xviii. 8, and xx. 11), a relative by marriage.
3. His sister (Lev. xviii. 9, and xx. 17).....a relative by blood.
4. His half-sister (Lev. xviii. 9, and xx. 17).....a relative by blood.
5. His son's daughter (Lev. xviii. 10),.....a relative by blood.
6. His daughter's daughter (Lev. xviii. 10),.....a relative by blood.
7. His father's sister (Lev. xviii. 12, and xx, 19),.....a relative by blood.

* It seems sufficiently evident that the prohibitions in Lev. 18th include prohibitions of Marriage They were so understood by the Jews, and are so understood by Christians generally. The terms used are not, in themselves, applicable merely to unlawful intercourse between persons not married to each other—they are elsewhere used with reference to marriages. Besides, if there be here no prohibition of incestuous marriages, such marriages are nowhere else forbidden, and thus a Jew might marry his nearest relatives without being guilty of incest. Although intercourse with them was punished by death, if there was no marriage, yet if the parties were married no punishment was inflicted! It need scarcely be added that the "wife" whom a man is forbidden to marry means "widow." Two men, father and son, or nephew and uncle, cannot be supposed to have been married at the same time to the same "wife." It is, obviously, the "widow" of the father and uncle whom the son and nephew are forbidden to marry. This is a common use of the word "wife" in other parts of Scripture.

8. His mother's sister (Lev. xviii. 13, and xx. 19),.....a relative by blood.
9. His father's brother's wife (Lev. xviii. 14, and xx. 20),...a relative by marriage.
10. His son's wife (Lev. xviii. 15, and xx. 12),.....a relative by marriage.
11. His brother's wife (Lev, xviii. 16, and xx. 21),.....a relative by marriage.
12. His wife's mother (Lev. xviii. 17, and xx. 14),.....a relative by marriage.
13. His wife's daughter (Lev. xviii. 17, and xx. 14),.....a relative by marriage.
14. His wife's son's daughter (Lev. xviii. 17),.....a relative by marriage.
15. His wife's daughter's daughter (Lev. xviii. 17),.....a relative by marriage.

No one can suppose that the above are the only relatives whom it would be sinful for a man to marry, or whom the Divine Law evidently intended to forbid. Thus, for example, neither in Leviticus, nor elsewhere in the Bible, is a man expressly forbidden to marry his grandmother, his niece, or even his daughter: but who can imagine that in giving a law on the subject of marriage, God did not intend to forbid marriage with such relatives? Evidently there are some marriages the prohibition of which is *necessarily implied*, although not expressed. We *must* have recourse to the method of inference in the interpretation of this, as of many other prohibitory laws. Nor are we to apply this method merely to the case of relatives by blood; we are bound in fairness to extend the method to the case of relatives by marriage. There are as good grounds, as we shall see, for inferring that it is sinful to marry a wife's aunt, sister, or niece, as for inferring that it is sinful to marry one's own grandmother, niece, or daughter. The same principles which lead to the conclusion that the one class of marriages is sinful, lead to the same conclusion with respect to the other class of marriages.

This will appear from the general principle that *a man may not marry any who are near of kin to him.* This is the general law as laid down in Lev. xviii. 6. "None of you shall approach to ANY "*that is near of kin to him*, to uncover their nakedness. I am the "Lord." The words translated "near of kin to him," mean, as in the marginal rendering, "remainder of flesh." They include all near relatives by blood. They include also near relatives by marriage or by affinity, as it is called. That they apply to relatives by marriage, and not to relatives by blood merely, is evident from the fact, that of the fifteen particular cases specified as "near of kin," eight are relatives by marriage, and seven relatives by blood, the first on the list being a relative by blood, the second a relative by marriage, the next six being relatives by blood, and the last seven being relatives by marriage. If "near of kin" had been intended to include merely relatives by blood, it is unaccountable that the second on the list should be a relative by marriage, and preceded and followed by relatives by blood; and that the remaining relatives by marriage should be mentioned without any note that they were not included under the general denomination "near of kin." All is plain when we assume that relatives by marriage as well as by blood are "near of kin." This view is confirmed by the fact that husband and wife,

who are relatives not by blood but by marriage, are said to be "one flesh," which is equivalent to being "near of kin." Thus not only does Adam speak of Eve "this is flesh of my flesh," but adds, with regard to husband and wife generally—"Therefore "shall a man leave his father and his mother and shall cleave unto "his wife; and they shall be *one flesh*," Gen. ii. 23 and 24. Thus men and women are "near of kin," not by blood only, but also by marriage. Now surely a wife's sister is a near relative, a very near relative, by marriage; and if a man is forbidden to marry *any* who are near of kin, he is certainly, according to the general law, not at liberty to marry one who is so nearly related as his wife's sister. If it had been forbidden to marry some only who are near of kin, there might have been some room for doubt, but the prohibition is against *all* who are near of kin; assuredly, therefore, the law forbids marriage with a wife's sister.

In the more particular interpretation of the law laid down in Leviticus—taking in connection the general principle with the specified instances—it may fairly be assumed that *when marriage is expressly prohibited between relatives of a certain degree of nearness, it is unlawful between relatives of an equally distant degree.* Thus, although a man is not expressly forbidden to marry his own niece, this may fairly be inferred from the express prohibition of a man's marriage with his own aunt, who is an equally distant relative. In like manner, although there is no express prohibition against a man's marrying his daughter, the unlawfulness of this marriage may be inferred from the express prohibition of marriage with his mother, who is equally removed. This principle, in its application to the law of marriage, is admitted by Dr. Chalmers in the same posthumous work in which he says that Lev. xviii. 18 implies the liberty to marry a deceased wife's sister, as well as "a connivance at polygamy." In his "Readings" on Lev. xx. we find the following words: "On verse 19 let me remark, that a mother's "sister is not nearer of kin than a sister's daughter; nor is a father's "brother of nearer kin than a brother's daughter." In other words, an uncle or an aunt is not nearer than a niece. Dr. Chalmers mentions this evidently for the purpose of showing that although a man is not expressly forbidden to marry his niece, yet this is unlawful, because the niece is as near a relative as the aunt. Let this rule be applied to the case of a wife's sister. A woman is as nearly related to two brothers of a different family, as a man is to two sisters of a different family. It follows by the rule, that as marriage is expressly forbidden between a woman and two brothers in succession, so it is unlawful between a man and two sisters in succession. The marriage of a woman with two brothers is expressly forbidden in Lev. xviii. 16 and Lev. xx. 21 "Thou shalt not uncover the nakedness of thy brother's wife, it is thy brother's nakedness." "If a man shall take his brother's wife it

is an unclean thing." It is true that in Deut. xxv. 5 there is an exception made in the case of a brother dying childless. Allusion is made to this exceptional case in one of the Parables of our Lord, in which seven brothers in succession are said to have been married to one woman. The design of the exception was to preserve the inheritance in Canaan in the family to which it was attached. But as the ground of the exception has passed away, the exception ceases, and the general law remains, that a man may not marry his brother's wife. This being the general express law, it necessarily follows, according to the principle of equi-distant relations being forbidden, that a woman may not marry her sister's husband. In other words, a man ought not to marry his wife's sister.

There is another principle which may fairly be applied to the interpretation of the law of marriage. *When marriage is forbidden between relatives of a certain degree, it is unlawful between those who are more nearly related.* Thus a man's own daughter is a nearer relative than his aunt, and the express prohibition of marriage with an aunt would, according to the principle stated, imply prohibition of marriage with a daughter. This principle is so very evident that it recommends itself at once to the acceptance of all. A man is forbidden to marry *any* who are near of kin—nearly related by blood or marriage. It may be doubtful to what extent "nearness" may reach. But nothing can be plainer than that if it is ascertained to reach, in various directions, to a certain degree of remoteness, it includes all nearer or less remote degrees. Let this rule be applied with reference to the case in question. A wife's sister is a nearer relative by marriage than a father's brother's wife. Now a man is expressly forbidden to marry his father's brother's wife, (Lev. xviii. 14) "Thou shalt not uncover the nakedness of thy father's brother, thou shalt not approach his wife, she is thine aunt." In other words, he is forbidden to marry his father's sister-in-law, and therefore he ought not to marry his own sister-in-law, who is more nearly related to him. As he is more nearly related to his own sister than to his father's sister, so he is more nearly related to his own sister-in-law than to his father's sister-in-law, and is therefore less at liberty to marry his own sister-in-law than his father's sister-in-law.

There is yet another form in which the argument may be exhibited which is drawn from the law laid down in Leviticus. *Whatsoever is there forbidden to a man, is forbidden to a woman in similar relations.* Thus a man is expressly forbidden to marry his granddaughter, his mother and his aunt; so a woman ought not (although she is not expressly forbidden) to marry her grand-son, her father or her uncle. Dr. McCaul, of London, who strenuously contends for the lawfulness of marriage with a deceased wife's sister, virtually admits this principle, when arguing that his views may be established by fair inferences, as well as by express statements.

"Even in the New Testament (he says) the lawfulness of a man's "marrying a second time is left to be proved by inference from the "permission given to a widow (Rom. vii.,) to take a second hus- "band." There are other cases in which it is equally necessary to assume the principle that what is unlawful to the man is unlawful to the woman in similar relations. Thus the tenth commandment is addressed particularly to the man, and forbids him to covet his neighbour's wife; but surely it is equally sinful in a woman to covet her neighbour's husband. Let this principle be applied to the marriage law in Leviticus, which is just an exposition of the fifth, seventh, and tenth commandments. It is forbidden, as we have already seen (Lev. xviii. 16, and xx. 21) to a woman to be united to two brothers in succession; it is therefore unlawful for a man to be married to two sisters in succession. Nor is it possible to set aside the force of this argument, so plain and simple, by the assertion that in many respects the woman differs from the man. It may be true that the man is stronger than the woman; that he is the head of the woman, that inheritances are entailed upon the man rather than the woman (as they are on the elder rather than the younger son); that in ancient times the choice of a woman in forming marriage alliances was held of little account; that adultery may be a more aggravated sin in a woman than in a man. But none of these things affect the principle that what is forbidden to a man is forbidden to a woman in similar relations. A man may not marry his mother; who would venture to argue from such differences as those mentioned, that a woman might marry her father? When, therefore, two brothers may not marry the same woman, why should it be argued from such differences that two sisters might be married to the same man?

It will now, I trust, be sufficiently apparent that it was the intention of the Divine Lawgiver to forbid marriage with a wife's sister, and on the same principle, with a man's own daughter, grandmother, or niece, although none of these relatives are expressly prohibited. If *all* who are near of kin are prohibited, and "near of kin" applies, as we have seen it does, to relatives by marriage as well as by blood, a man is not at liberty to marry a wife's sister, who is very near of kin by marriage. If, when marriage is forbidden between relatives of a certain degree of nearness, it is unlawful between relatives of an equal degree of nearness; then as it is forbidden to a woman to be married to two brothers in succession, it is unlawful to a man to be married to two sisters in succession. If, when marriage is forbidden between relatives of a certain degree, it is still more plainly unlawful between persons more closely related; it is unlawful for a man to marry his wife's sister, who is more nearly related to him than his father's sister. If that which is forbidden to a man is forbidden to a woman in similar relations, a woman may not

marry her sister's husband, since a man may not marry his brother's wife. Any one of these considerations is conclusive against the marriage in question. Their combined force is, in my opinion, resistless.

Although marriage with a deceased wife's sister is the subject chiefly in question, it may be proper to add that, from the considerations advanced, marriage with a wife's aunt or niece may easily be shown to be unlawful. Thus, a man is expressly forbidden to marry his father's brother's wife (Lev. xviii. 14). It follows that a woman is forbidden to marry her mother's sister's husband, which is precisely the same thing as to say that a man may not marry his wife's sister's daughter. Further, if he cannot marry his wife's sister's daughter, he cannot marry his wife's ~~mother~~ sister, since both relatives are equally distant. So, also, it is unlawful for him to marry his wife's brother's daughter, or his wife's brother's ~~mother~~ sister; which relatives are equally distant with a wife's sister's ~~mother or~~ daughter, and with a father's brother's wife. In like manner, by an application of the principles laid down, it may be shown generally that, as stated in the Confession of Faith, "a man may not marry any of his wife's relations nearer in blood than he may of his own." Here it is proper to note (as much misconception prevails on the subject), that the Confession does not teach, nor do we hold, that a man is debarred from marrying his *wife's relatives by marriage* equally with his own relatives by blood. It is only to *his wife's relatives by blood* that the prohibition is held to extend. A man is not equally related to his wife's relatives by marriage and his wife's relatives by blood, and the instances given in Leviticus do not warrant an extension of the prohibition to both alike. If there had been even a single case in which a man was expressly forbidden to marry a wife's relative by marriage—for example, a wife's uncle's wife—it would have been proper to infer other cases of double affinity. *But there is not a single instance of a wife's relatives by marriage being expressly forbidden to the husband, or of the husband's relatives by marriage being forbidden to the wife;* hence, we are not warranted to extend the meaning of "near of kin" to any such relative.

In order to place the subject more clearly before the mind, and to exhibit the conclusions arrived at by an examination of the Divine law, I subjoin the common table of forbidden degrees, marking, in *Italics*, the relatives forbidden, not expressly, but by inference.

A Man May Not Marry His	A Woman May Not Marry Her
1. *Grandmother,*	1. Grandfather,
2. *Grandfather's wife,*	2. Grandmother's husband,
3. Wife's grandmother,	3. *Husband's grandfather,*
4. Father's sister,	4. *Father's brother,*
5. Mother's sister,	5. *Mother's brother,*
6. Father's brother's wife,	6. *Father's sister's husband,*

7. *Mother's brother's wife,*	7. *Mother's sister's husband,*
8. *Wife's father's sister,*	8. *Husbands father's brother,*
9. *Wifes mother's sister,*	9. *Husband's mother's brother,*
10. Mother,	10. *Father,*
11. Step-mother,	11. Step-father,
12. Wife's mother,	12. Husband's father,
13. *Daughter,*	13. Son,
14. Wife's daughter,	14. Husband's son,
15. Son's wife,	15. Daughter's husband,
16. Sister,	16. Brother,
17. *Wife's sister,*	17. Husband's brother,
18. Brother's wife,	18. *Sister's husband,*
19. Son's daughter,	19. *Son's son,*
20. Daughter's daughter,	20. *Daughter's son,*
21. *Son's son's wife,*	21. Son's daughter's husband,
22. *Daughter's son's wife,*	22. Daughter's daughter's husband,
23. Wife's son's daughter,	23. *Husband's son's son,*
24. Wife's daughter's daughter,	24. *Husband's daughter's son,*
25. *Brother's daughter,*	25. Brother's son,
26. *Sister's daughter,*	26. Sister's son,
27. *Brother's son's wife,*	27. *Brother's daughter's husband,*
28. *Sister's son's wife,*	28. *Sister's daughter's husband,*
29. *Wife's brother's daughter,*	29. Husband's brother's son,
30. *Wife's sister's daughter.*	30. *Husband's sister's son.*

It will be observed that the second column is merely a statement in a different form of what is contained in the first column. Thus, No. 10 in the first column is the same as No. 13 in the second—prohibition of a man's marriage with his mother being the same as prohibition of a woman's marriage with her son. It thus appears that the number of *distinct prohibitions* in the two columns is thirty. Of these fifteen are expressly prohibited, and the other fifteen—those printed in *Italics*—by inference. That the inferences are good and necessary in most of the cases is generally admitted. Thus, Mr. Laing admits that they are all good, on various principles, with the exception of five, viz: a wife's aunts (Nos. 8 and 9), sister (No. 17), and nieces (Nos. 29 and 30). From the fact that a man is forbidden to marry his uncle's wife, he infers that he may not marry his nephew's wife, but denies that from a woman's being prohibited to marry her husband's nephew may be justly inferred the unlawfulness of marriage between a man and his wife's niece. The reason of his denial he extends to the case of a wife's sister. Let us endeavour to understand his reason, and see whether it is a good one. He thinks a man is not so nearly, or in the same way, related to his wife, as the wife is to her husband. By marriage the wife becomes his blood relative, but he does not become her blood relative. She becomes consanguineous with him, but he does not become consanguineous with her. Hence, he is less closely related to her relatives than she is to his. It follows that he may marry her sister, aunt or niece; but she may not marry his uncle, brother, or nephew. He further asserts that, so far as marriage is concerned, a sister is not so near to a sister as a brother is to a sister. Therefore, a sister's relatives by marriage are not so near to a woman as a brother's relatives by

marriage. Hence, while a woman may marry her sister's husband, a man may not marry his brother's wife. While a man may marry two sisters in succession, a woman cannot marry two brothers in succession. I think a mere statement of this style of reasoning is a sufficient refutation of it.* Few, I suppose, will place much stress upon the physiological considerations which may seem to countenance it, in the face of the Bible declarations respecting the husband and wife, that "*they twain* shall be *one flesh*," and the language in Lev. xviii. 12 and 13, which represents a man's sister to be his near kinswoman (his flesh) and at the same time a woman's sister to be her near kinswoman (her flesh). These and similar statements entirely discountenance the idea, that, so far as marriage is concerned, a man is less nearly related to his wife and her relatives than she is to him and his relatives; or that a brother and sister are more nearly related than two sisters; and thus leave us at liberty to extend the prohibitions to a wife's aunt, niece and sister, as well as to a husband's uncle, nephew, and brother.

Having examined the Divine Law, as contained in Lev. xviii., 6-17, and seen that, by good and necessary inference, it forbids marriage with a deceased wife's sister; let us now attend to the 18th verse, which, according to the translation in the English text, may seem to imply that such a marriage is permitted—but which

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*The following extracts from Mr. Laing's pamphlet, with reference to his distinctions, will, I doubt not, be read with surprise:—

"What we call in question is the sameness of the *compound* relation—*whether*, "*according to the law of Moses, a relationship formed by blood and marriage is the* "*same as a relationship formed by marriage and blood:* or, to use the terms already "employed, we ask whether, according to the law of Moses, simple affinity in the "collateral line is the same in *effect* as consanguineous affinity in the collateral "line?" (p. 23.) "Who does not regard as revolting, as subversive of all morality, "and of the family institution, to speak of polygamy among women? Who would "plead for that? Men may have more wives than one, but there is no confusion or "mingling of blood so long as wives are chaste." With reference to what he calls "simple affinity," and "consanguineous affinity," he says: "Now let us remember "that we have two *distinct and perfectly different relations* under the name of affi- "nity, and let us not deceive ourselves by the ambiguous term. The first results "from the marriage of a woman with the man's blood relatives; the other is the "relation in which a man stands to his wife's blood relatives." "To establish the "argument under notice we would require a statement to the effect, that being the "sister of a man's wife is a bar to marriage, on the principle that two sisters are "one flesh. Now this is nowhere said, but the contrary is implied." "But it is "said, impatiently, 'What nonsense! Are not a sister and sister as much one flesh as "'a brother and sister?' We answer no—not in the only sense affecting the argu- "ment. A man is forbidden to marry his sister. By doing this there would take "place confusion of blood. The thing is not possible in the case of sisters, there- "fore it needs no prohibition. Just so, a man might marry his brother's wife, "which would produce confusion of blood, therefore it is forbidden; but though a "man should marry his wife's sister there is no confusion of blood, therefore it is "not prohibited, for that reason, but for the special one 'to vex her.' Strange as "it may seem, in the two cases the man and woman are not brother-in-law and "sister-in-law in the same sense. This will appear from the simple statement that "the children of the one sister-in-law are heirs at law of the man; the children of "the other are not in the line of succession at all." If there be any force in the last illustration, a sister is nearer to the eldest brother, who is the heir, than to the younger brothers, who are not heirs of the entailed inheritance!

only *seems* to imply it. The words of the English text are: "Neither shalt thou take a wife to her sister to vex her, to uncover her nakedness, beside the other, in her lifetime." This *seems* to imply that after the death of the wife he may marry her sister. But this is by no means a necessary inference. This Mr. Laing frankly admits. He says: "Taken, then, in its obvious sense, and in its "connection with the preceding part of the law, it seems to mean "a man is forbidden to marry his wife's sister; thus vexing her by "doing that which is incestuous beside a sister during her life. "This by no means *proves* that he may marry her when his wife "is dead, although it *implies* it." Again he says: "If it can be "shown from other passages that this marriage is incestuous, then "this verse (18) cannot make it not incestuous, or *justify* it." He is quite right. That which is forbidden for a particular reason, which reason ceases at a particular time, might be wrong afterwards on other grounds. Thus we might suppose Isaac forbidden to marry a woman of Canaan, lest by doing this he would vex his father and mother during their lives. It does not follow, as a matter of course, that he might marry a Canaanitish woman afterwards. Nay, the very reason which would make such a marriage a vexation to the parents while they lived—alliance with a godless race—ought to prevent it afterwards. So when a man is forbidden to marry a wife's sister during the life of his wife, lest he should vex her, it does not follow as a matter of course that he may marry her after the death of his wife. The very same reason—the unlawful character of the connection—which would be a source of vexation to the wife while alive, might prevent the marriage afterwards. How is the wife vexed? Not simply by her husband's having two wives, but by the aggravated wickedness of consorting with her sister. The peculiar aggravation of this sin would render her miserable for life. She could never think of it but with abhorrence while she lived. Nor would that which rendered it so vexatious terminate with her life. Just as it would vex a woman through life if her husband were to marry her daughter, and as that which was the ground of the vexation—the unlawful nature of the connection—would continue to be sinful afterwards; so, a wife would be vexed by her husband marrying her sister, and the ground of the vexation—the unlawful nature of the connection—would continue afterwards. Thus, the translation in the English text affords no good or necessary inference in favour of marriage with a deceased wife's sister, in face of a law which as clearly forbids it as it forbids marriage with a daughter or niece. It does not "*prove or justify it.*" It may here be mentioned that, although the translation adopted in the English text was generally received for 1,500 years in the Christian church, it was scarcely ever supposed to give countenance to the marriage in question, which was generally regarded as forbidden in the previous verses. Even after the

faulty Greek and Latin versions ceased to be slavishly followed, and the original Hebrew text and its idioms began to be more carefully studied, many of the most distinguished Reformers (Calvin, for example), while translating as in the English text, unhesitatingly rejected the inference that marriage with a deceased wife's sister was permitted ; holding that it was clearly forbidden in the previous verses. So also the rendering of the text is accepted by distinguished writers of the present day, who, nevertheless, contend that it affords no warrant to the marriage in question.

But if the marginal translation is adopted, there remains not even the slightest apparent countenance to marriage with a deceased wife's sister. The marginal translation is : "Neither shalt thou take one wife to another to vex her, &c." According to this translation, the 18th verse simply forbids the sin of polygamy, and does not touch upon the question of marriage with a wife's sister. There are many reasons on account of which I cannot resist the conclusion that this is the correct translation. These are fully exhibited by Dr. James Gibson, of Glasgow, whose treatise on the "Marriage affinity question" is the most satisfactory which I have seen on the subject. The chief reason is that the idiomatic form of expression translated in the text "wife to a sister," is elsewhere uniformly and, as is admitted, correctly translated "one to another," or by words of similar import. There are upwards of thirty cases, and the rendering in the text is the only case in which there is a departure from the general rule. The following are a few of the cases : In Gen. xiii. 11, it is said of Abraham and Lot that they separated themselves "one from the other"—the literal words are "a man from his brother." In Gen. xxvi. 31, it is said of Abimelech and Isaac that they sware "one to another,"—literally, "a man to his brother." In Ex. xxvi. 17, we read : "two tenons shall there be in one board, set in order, one against another"—literally, "a woman against her sister." In Ex. xxxvii. 9, it is said of the Cherubims that they "covered with their wings over the mercy seat, with their faces one to another"—literally, "a man to his brother." Now there is no good reason to depart from the usual meaning of the words in the translation of Lev. xviii. 18. If the same, or a similar form of expression, be translated by "one to another," or words of similar import, in thirty-four out of thirty-five cases, it is fair to conclude that it should be similarly translated in the remaining case.* The marginal translation, it

* It has been objected to the marginal translation, that it would require the plural noun "women" to be inserted before the phrase "woman to her sister," translated, "one woman to another." But why should we require the word "women" here, more than the word "men" in Gen. xiii. 11 and Gen. xxvi. 31? In all these places the plural noun is alike needless, and alike omitted. When Moses had been speaking of Abraham and Lot, it was needless to say, and he does not say "they separated themselves, the men, a man from his brother" (that is, one from another).

may be added, accords with the fact that polygamy, by the Divine law, as indicated in Gen. ii. 24, and Mal. ii., 14, 15, was sinful. It is held, indeed, by many that polygamy was not sinful in ancient times; and in proof of this, reference is made, among other things, to the cases of Abraham, David, and other polygamists. But the fact that Abraham and David were polygamists does not prove that polygamy was not sinful, any more than the fact that Abraham was guilty of falsehood, and David of murder, would prove that falsehood and murder were not sins. So far as David was concerned, his polygamy was in violation of a specific law, with reference to Kings, contained in Deut. xvii., 17 : "Neither shall he multiply wives to himself, that his heart turn not away." Besides, in the case of Uriah's wife, it is represented as a sin that David had not only put her husband to death, but that he afterwards took her to be his wife. If it is alleged that God's declaration that he "gave" David his master's (that is, his father-in-law's) wives into his bosom, justifies his polygamy, the folly of such an allegation will be seen by comparing it with the similar declaration, in which God is said to "give the land of Egypt unto Nebuchadnezzar, King of Babylon," and which cannot be said to vindicate the conduct of Nebuchadnezzar in his aggressive wars. God, in his providence, permits wicked men to do wrong, and may thus be said to *give* them the desire of their hearts ; but this implies no sanction of their conduct as being right and lawful. It can form no objection, therefore, to the marginal translation of Lev. xviii., 18, that elsewhere polygamy is supposed to be sanctioned by the word of God. The supposition is groundless. The original law against it is nowhere repealed. Lev. xviii. 18 is a simple re-enactment of it.

But while I prefer the marginal translation, it will be seen that, whether we adopt the marginal or the textual rendering, Lev. xviii. 18 neither *proves* nor *justifies* the marriage of a deceased wife's sister, in the face of a positive prohibition. In the previous verses there is a prohibition as distinctly and clearly implied as the prohibition of marriage with a niece, daughter, or grandmother. As a man should not marry his aunt, so a woman should not marry her uncle ; as a man should not marry his mother, so a woman should not marry her father ; as a man should not marry his granddaughter, so a woman should not marry her grandson. In

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He simply says, "they separated themselves a man from his brother," (that is, one from another.) In like manner, when Moses is writing of women whom a man ought not to marry, it was needless to say, and he does not say "thou shalt not take women—a woman to her sister" (that is, one woman to another); but simply says "thou shalt not take a woman to her sister" (that is, one woman to another). The case is very differentwhen he is writing of the faces of the cherubim, and the tenons, loops and curtains in the tabernacle. Thus, in Ex. xxvi. 6, the meaning would not have been apparent without the word "curtains." The verse would have been "thou shalt make fifty taches of gold, and couple together a woman to her sister (that is, one to another) with the taches." The word "curtains" is necessary after "couple," to prevent a ridiculous mistake.

like manner, as a woman should not be married to two brothers in succession, so a man ought not to be married to two sisters in succession. I trust the argument, as I have endeavored to present it, will commend itself to the reason and conscience of all, and especially of the members and office-bearers of the Canada Presbyterian Church. I think that, if seriously, candidly and prayerfully pondered, it may contribute to prevent our members from contracting, and our office-bearers from sanctioning, such alliances as brought down the judgments of the Almighty on the Egyptians and Canaanites, and, as I believe, expose us to similar judgments.

Toronto, October, 1868.

REMARKS ON MR. GREGG'S PAMPHLET.

On page 9th, Mr. Gregg's arguments are presented in a summary form. We notice them in order :—

1.—"If *all* who are near of kin are prohibited, and 'near of "kin' applies.....to relatives by marriage as well as by blood ; a "man is not at liberty to marry a wife's sister, who is very near of "kin by marriage."

While we admit that 'near of kin' is applied by Moses to *some* relatives by marriage, we deny that *all* are included under that term. Women married to blood relatives are included (Lev. xviii 8, 11 to 16), the relatives of the wife in the direct line ascending and descending (v. 17), and the wife's sister *during the life of the wife*, but not after that event. We, therefore, believe that the sister of a DECEASED wife is not included in the general prohibition of verse 6, and we reject Mr. Gregg's fundamental assumption,—"Surely a wife's sister is a near relative," (p. 7). This first argument, then, fails, unless it can be shown that the wife's sister is included. This it is attempted to do from verse 16, which we shall notice shortly. But this argument, stated separately, takes for granted that she is included,—"*Surely* she is a near relative." The argument, as well as the two following, virtually resolves itself into the Fourth argument of Mr. Gregg, and stands or falls with it.

If v. 16 is properly interpreted, *e converso*, then, beyond all dispute, wife's sister is included in the general prohibition of verse 6. But until that interpretation is vindicated we cannot grant this ; without that vindication we have the 'vicious circle'—*Surely* wife's sister is forbidden, because she is near, very near of kin. We reply, she is not near of kin, not being included by the law of Moses. In answer, we are told she is included, because she is forbidden in v. 16., and when proof for this assertion is demanded, we are told, she *must* be forbidden, for she is near of kin, since she is *as* nearly related *as* brother's wife. This is to all intent the same as the original proposition, 'she is near of kin,' which we have been calling in question.

2.—"If, when marriage is forbidden between relatives of a cer- "tain degree of nearness, it is unlawful between relatives of an "equal degree of nearness ; then, as it is forbidden to a woman to "be married to two brothers in succession, it is unlawful to a man

"to be married to two sisters in succession." This will follow if Mr. Gregg's Fourth argument is valid, but not otherwise. We need not, therefore, discuss this argument, since, if the Fourth is valid, it is not needed, and, if the Fourth is fallacious, so is this.

3.—"If, when marriage is forbidden between relatives of a cer-"tain degree, it is still more plainly unlawful between persons "more closely related; it is unlawful for a man to marry his wife's "sister, who is more nearly related to him than his father's sister." I presume Mr. Gregg means *sister-in-law*, instead of the last word, (see page 8).

This argument may also be dismissed as not valid, unless the Fourth argument be established, and in that case as useless. But as the illustration on page 8 affords a specimen of the equivocal style of reasoning against which we contend, we call attention to it. Mr. G. says:—"Now, a man is expressly forbidden to marry his "father's brother's wife (Lev. xviii 14); in other words, he is for-"bidden to marry his father's *sister-in-law*, and therefore he ought "not to marry his own *sister-in-law*, who is more nearly re-"lated to him." The whole force of argument lies in the words italicised. *Sister-in-law* is used in a double sense, hence the fallacy. It is first applied to a brother's wife, then to a wife's sister, as though they were identical. This *identity* is the very point in dispute; but Mr. Gregg quietly *assumes* it without proof. Is not this *petitio principii?*

4.—"If that which is forbidden to a man is forbidden to a wo-"man in similar relations, a woman may not marry her sister's "husband, since a man may not marry his brother's wife." This is applied to v. 16, and is the only position of importance in the controversy. Let this be settled, and all is settled. Mr. Gregg seems to feel its importance, and also the necessity of *establishing* his first proposition.

This principle Dr. Gibson tersely states thus:—"What is law for man is law for woman." Yes, we reply; and as it is law for man not to marry his brother's widow, so it is law for woman not to marry her husband's brother; but as there is no law for a man not to marry his wife's sister (except v. 18), so there is no law for a woman not to marry her sister's husband, when she is dead. Mr. Gregg or Dr. Gibson requires to show that *there is law for woman*, and as what is law for woman, we presume, is law for man, then make his application. But in Leviticus Law of Incest, there is *no law for woman:* it is all for man, though *necessarily* including the woman whom the man marries. This fact cannot be gainsaid.

But Mr. Gregg makes an attempt to *prove*—"Whatsoever is for-"bidden in Leviticus to a man, is forbidden to a woman in similar relations."—

Proof 1.—"Dr. McCaul virtually admits it," &c., p. 8 and 9. Can proof be feebler? Suppose Dr. McCaul does admit it—Calvin *asserts* it; but we call in question both the admission and the assertion. Neither has the least weight as *proof*. The inference, too, which is quoted as admitted, is utterly irrevelant as proof. For, even suppose that Rom. vii did prove that as a woman might marry a second time, so a man might do the same in similar *circumstances*, it has manifestly nothing to do with a question of relations. It would only prove that a *widower may* marry, but could not bear on the question *whom* he should marry.

Proof 2.—"There are other cases in which it is equally necessary to assume the principle." But, what are these? Name them. *Only* one is mentioned, viz., the 10th Commandment. We do not believe that another *can** be mentioned, the assertion notwithstanding; and we can show that the 10th Commandment proves nothing in this direction.

The 10th Commandment includes the woman in its subject. Though addressed to the man, it is the forbidding of any one to covet the affections of a married person of the opposite sex. It is binding on all men and women (homo). We do not dwell on a palpable distinction between the Decalogue and Lev.xviii, which Mr. Gregg overlooks, and which, yet, is most important, viz.:—That, whereas the former is moral *natural*, of universal and eternal obligation; the latter is moral *positive*, deriving its authority from positive enactment; not binding until the *law* was given. Coveting was wrong before the tables of stone were given; there was no such thing as incest till the law of incest was given.

There is another distinction, however, far more important. The 10th Commandment regulates the conduct of *individuals*; the law of incest cannot be broken, unless *one of each sex* be involved in crime. Hence, while in the former the prohibition is general, in the latter it takes the form of prohibiting *one sex*—the man. It might, like the common tables of degrees, have been constructed so as to express a prohibition on both man and woman. As a matter of fact, however, the prohibition is laid by Moses upon the man only. But when a certain marriage is forbidden to the man, it is forbidden also to the woman *with whom* THAT *marriage can be formed*. For example, a man is forbidden to marry his sister, or marriage between brother and sister is forbidden, and the prohibition lies on both man and woman. So a man is forbidden (verse 16) to marry his brother's widow, and thus marriage between a man and his sister-in-law, *brother's widow*, is forbidden; consequently a woman is forbidden to marry her sister's husband. But

* We say "*can*," for the law of incest is unique, as it regulates, not the conduct of *individuals*, but the intercourse of the sexes.

a man is not forbidden to marry his deceased wife's sister. There is no such law; consequently the marriage is not unlawful, and there is no prohibition against a woman marrying her sister's husband.

To put the matter in another form.—Let A. B. be two brothers, and C. D. two sisters. If A. and C. marry, then, by the law of Moses, A. may not marry D. during C's. life, or the marriage of A. D. is unlawful while C. lives. If A. die, then B. may not marry C., or B. C. is unlawful; but if C. die, then, there is nothing unlawful in A. D. The marriages B. C. and A. D. are not *identical.* B. C. was always unlawful, A. D unlawful only during the wife's life.

As, therefore, the law of incest must take the form of a prohibition on one sex, necessarily including the other, with whom the connection is formed, and is, in fact, addressed to the man only, it differs in form from the 10th Commandment so materially as to render inapplicable the analogy on which Mr. Gregg's arguments rests, and *this is all the* PROOF *offered in support of the principle* laid down by Mr. Gregg. It fails to establish the fundamental proposition, and thus the Fourth argument falls of itself.

This *e converso* method of interpretation, against which we contend, is *required* only for the relatives of the wife in the collateral line. In all other cases the inference is *direct*, on the principle laid down by Moses. But in these cases we have (1) a prohibition on the man; (2) a prohibition on the woman inferred therefrom *directly;* (3) a further prohibition on the woman inferred *e converso*; (4) a prohibition on the man inferred directly therefrom (see the development of the Tables of Degrees, by Sereno Dwight, page 77). Now, as no *warrant* for this method can be shown, either from a principle laid down or an example given, we feel constrained to reject it as unwarrantable.

A great deal is sometimes said about "common sense" interpretation of the law, and the meaning taken by the general reader. Now, without arguing which is the obvious or common sense interpretation, we object to *interpretations* of law being left to the common reader. Points of law belong to courts. A jury of common men give a verdict as to facts; but on disputed points of law, professional men, jurists, must be consulted. The authority acknowledged for Ecclesiastical law has always been the Church Courts; to them, then, we appeal as judges, and not to the common people, in this matter. But we may just look at this "common sense" argument, which *every person*, we are told, may comprehend, as it is set forth by Mr. Gregg in page 10.

"A man is expressly forbidden to marry his father's brother's "wife. (Lev. xviii. 14). It follows that a woman is forbidden to "marry her mother's sister's husband, which is precisely the same

"thing as to say that a man may not marry his wife's sister's "daughter." The two following sentences Mr. Gregg desires to have amended; we, therefore, do not comment on them as they are printed. Now, even on Mr. Gregg's own principles, the above passage should read — "A woman is forbidden to marry her "*father's* (not mother's) sister's husband." True, by another inference, which further complicates the argument, as father and mother are in the same degree of blood relation, it is *assumed* that paternal aunt and maternal aunt are equivalent. And as it is *necessary for the desired conclusion* to substitute the one for the other, it must be done. Moses, indeed, separately treats of father's sister, and mother's sister; but Mr. Gregg finds it necessary to confound them in his argument. The argument, then, as we have it, may be thus fairly stated:

Because a man may not marry a woman who has been married to his *father's* brother—

Therefore, a woman may not marry a man who has been married to her *mother's* sister;

And, *therefore*, a man may not marry a woman *who has never been married*, but who is daughter of the sister of his wife;—

That is, because a man has been forbidden to marry his *paternal* aunt by *marriage*, THEREFORE he may not marry his *wife's niece*.

Let the *common* reader sit in judgment on the above, and witness his bewilderment, his inability to see the sequence.

Whether the statement of the views of the pamphlet be fairly presented on page 12 by Mr. Gregg, and whether the condensation of argument on page 13 is fair, our readers will judge. It may, however, be asked, how Mr. Gregg allowed himself to pen such a gross misrepresentation as the following, on page 9:—"A "man may not marry his mother; who would venture to argue "from such differences as those mentioned, that a woman might "marry her father? When, therefore, two brothers may not marry "the same woman, why should it be argued from such differences "that two sisters might be married to the same man?" Has it anywhere been said, either expressly or implicitly, "a man *may* "*not* marry his brother's wife, THEREFORE, a woman may marry "her sister's husband?" If it has, the writer is a fool; if not, then why this misrepresentation?

On page 12 we find these words:—"Few, I suppose, will place "much stress on the physiological considerations which may seem "to countenance it," &c. We reply, these few may be right, notwithstanding; the many are not always right. And, perhaps, more might be added to the few, if attention were generally given to physiological works and the facts therein stated, or if readers candidly weighed such ordinances of the Mosaic law as, while requiring the destruction in doomed nations of all the males and every wo-

man who had known man by lying with him, spared virgins, and accounted the offspring of these women, when married to Israelites, pure and within the covenant. Other considerations might be urged. It was, however, thought better not to introduce this argument, as it is not by Moses *expressly* stated. Mr. Gregg, not the pamphlet, is responsible for its being mentioned. On that argument we lay no "stress." It is the *facts* in the law that we build on, facts not to be gainsaid; that Moses, in a very marked way, recognises a distinction between consanguineous and simple affinity; and that the law of incest is constructed in view of that distinction. These facts remain, whether the reason of them be the "considerations" mentioned by Mr. Gregg, or some other.

The consent of the Church and of jurists in all ages has been urged against the opinions advocated in the pamphlet. A short statement, then, may serve to show the value of that *consent*:— Such marriages were, beyond question, common in the Jewish Church. In the beginning of the fourth century they seem to have been forbidden by the Apostolic constitutions and the canons of the Councils of Eliberis and Neo-Cæsarea. The Justinian Code contains no prohibition; but under Constantine, if not earlier, they were forbidden by the civil law of Rome. Having become part of Canon law, the prohibition extended over every country where the Roman Catholic Church had power. Thus it became law in England. Under Henry VIII., this part of Canon law, which was professedly based on Lev. xviii, was not repealed. The Westminster divines set forth the proposition which we have been considering as their opinion; and through the Confession of Faith it became law in Scotland. Jurists have always declared the marriage illegal, but they have not always declared it unscriptural. Chief Justice Vaughan, and all the other judges of England, said, in 1670:—"Within the meaning of Leviticus, and the "constant practice of the Commonwealth by the Jews, a man was "prohibited not to marry his wife's sister only during her life; "after he might (so the text is). This, perhaps, is a knot not "easily untied; How, the Levitical degrees are God's law in this "kingdom; but not as they were in the Commonwealth of Israel, "when first given."

Now, no one will lay any stress on the opinion of Constantius or Constantine, on the Apostolic Constitutions, or opinions of such Councils as those of Eliberis and Neo-Cæsarea, nor, consequently, on Canon law. The opinion of the English Reformers is, indeed, of weight, and more so that of the Westminster Assembly. But even they may have erred. The Church to-day is as competent to form an opinion as they were, and we are in duty bound to *prove* the opinion which they handed down, and to reject it, if it be found wanting.

We may now sum up our results. We have restricted our argument to the Confession of Faith and the Practice of the Church, and have entered on the general question only in so far as it is connected with our Standards.

The Confession says :—"*The man may not marry any of his "wife's kindred nearer in blood than he may of his own* ; nor the "woman of her husband's kindred nearer than of her own."

This statement is simple and easily understood—quite a contrast with Sereno Dwight's involved inferences. If the proposition of the Confession can be vindicated, there is no need of any of Mr. Gregg's arguments ; for, as a man may not marry his own sister, he may not marry his wife's sister. If any one will just give us *one* passage which says or implies that a man may not marry his wife's relative in the collateral line when she is dead, then the Confession is justified, and the controversy is at an end. But unless that can be done, we find a proposition in our Standards which cannot be maintained from Scripture.

1.—We take exception only to that part of the above proposition which is italicised. We believe that a woman is forbidden to marry both her own brother (v. 9) and her husband's brother (v. 16). But while we find a man forbidden to marry his own sister (v. 9), we do not find him forbidden to marry his wife's sister after the wife's death : nay, verse 18 seems implicitly to sanction it. We have given reasons for rejecting the arguments based on verse 16, and verses 13 and 17 combined. We conclude, therefore, *that the marriage is not Forbidden.*

2.—If the marriage is not forbidden, it is *not Incestuous.* It may be illegal or inexpedient, as the marriages specified in Confession xxiv. 3 ; but not being against *express* enactment, it is not Incestuous.

3.—Not being incestuous, when once consummated, such marriages *Cannot be Dissolved.* The husband and wife are one ; "no "law of man or consent of parties" can put them asunder ; nor should the Church say to the man, "Put her away."

4.—Such marriage should *not be followed by Excommunication.* The parties concerned are not living in sin, which must be repented of and forsaken. If there is a wrong done in the circumstances, it is not of the kind which cannot be condoned.

5.—The practice of our Church, therefore, seems to be unwarranted by Scripture, and to rest on "slight and arbitrary grounds."

6.—We ask for such a change in our Practice, and if it be necessary, in our Standards, as may afford relief to many among us who feel aggrieved.

We now leave the matter with our readers till it again meets us in the Supreme Court of the Church ; and may God grant ilght, guidance, and grace, that all may be done in accordance with His will and for His glory.